

ENTERED

September 17, 2024

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSEPH WEINMEISTER

VS

MARTIN O'MALLEY, Commissioner of
Social Security Administration§
§
§
§
§
§

CIVIL ACTION NO. H 23-3151

ORDER ADOPTING MEMORANDUM AND ORDER

Pending before the Court in the above referenced proceeding are the parties' Cross-Motions Motion for Summary Judgment (Doc. Nos. 11, 13); and Magistrate Judge Bennett's Memorandum and Recommendation (Doc. No. 17). Neither party filed objections to the Memorandum and Recommendation and the time for doing so has passed.

Upon review, the Court agrees with the Magistrate Judge's conclusions. Accordingly, it is hereby

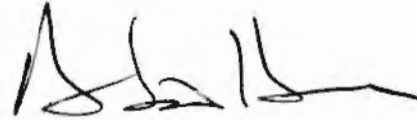
ORDERED that the Memorandum and Recommendation (Doc. No. 17) is **ADOPTED**. It is further

ORDERED that Plaintiff's Motion for Summary Judgment (Doc. No. 11) is **GRANTED IN PART and DENIED IN PART**. Plaintiff's claims that the Administrative Law Judge (1) violated SSR 16-3(p) to find Plaintiff's symptoms "are not entirely consistent with the medical evidence and other evidence in the record;" (2) violated SSR 96-3(p) to find Plaintiff's ADHD impairments as non-severe; and (3) violated SSR 96-8(p) in failing to evaluate Plaintiff's abilities on a function-by-function basis are **DENIED**; and Plaintiff's claim regarding the Administrative Law Judge's findings at Step Three is **GRANTED**; and the Commissioner's Motion for Summary Judgment (Doc. No.

13) is **GRANTED IN PART and DENIED IN PART**. It is further

ORDERED this case is **REMANDED** for further administrative proceedings to include an explanation on why Plaintiff's condition does not *equal* Listing 1.15.

SIGNED this 11th day of September 2024.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', written over a horizontal line.

ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE